IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.6.2007

CORAM:

THE HONOURABLE MR.JUSTICE F.M.IBRAHIM KALIFULLA
AND
THE HONOURABLE MR.JUSTICE S.TAMILVANAN

W.P.Nos.19725 of 2001 and 23815 and 32787 of 2002

Union of India rep. by
Commissioner of Central Excise,
No.1, Williams Road,
Cantonment, Trichy-1.
.. Petitioner in W.P.No.19725 of 2001

Union of India rep. by
1. Secretary, Department of Revenue,
Rajendraprasad Bhavan, New Delhi.

2. The Commissioner of Central Excise,
26/1 (121), Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034. .. Petitioners in W.P.Nos.23815 and 32787 of 2002

vs.

1. The Central Administrative Tribunal,
rep. by its Registrar,
Addl. City Civil Court Building,
Chennai-104.
.. First respondent in all the Writ Petitions

2. S.Srinivasan .. Second respondent in W.P.No.19725 of 2001

2. C.Madasamy
3. S.Sivapunniya Moorthy
.. 2nd and 3rd respondents in W.P.No.23815 of 2002

2. R.Sivasankara Dass
.. Second respondent in W.P.No.32787 of 2002

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Writ Petition No.19725 of 2001 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the proceedings of the first respondent dated 27.11.2000 made in O.A.No.570 of 2000 and quash the said order dated 27.11.2000.

Writ Petition No.23815 of 2002 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the proceedings of the first respondent dated 28.11.2000 made in O.A.No.391 of 1999 and quash the said order dated 28.11.2000.

Writ Petition No.32787 of 2002 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the proceedings of the first respondent dated 28.11.2000 made in O.A.No.347 of 1999 and quash the said order dated 28.11.2000.

For petitioners : Mr.M.Jagadeesan,
Standing Counsel for
Central Government

For respondents : No appearance

ORDER

(The Order of the Court was made by F.M.Ibrahim Kalifulla,J)

The challenge in all these Writ Petitions is to the orders of the Central Administrative Tribunal, dated 27.11.2000 in O.A.NO.570 of 2000 (in W.P.No.19725 of 2001), dated 28.11.2000 in O.A.No.391 of 1999 (in W.P.No.23815 of 2002) and dated 28.11.2000 in O.A.No.347 of 1999 (in W.P.No.32787 of 2002).

2. The respective applicants approached the Tribunal, challenging the action of the petitioners in not considering their names for being placed before the Department Promotion Committee for promotion to the grade of Inspector of Central Excise. According to the applicants, who are the second and third respondents in the respective Writ Petitions, as per the prevailing practice, for the purpose of promotion, the upper age limit for all posts was 45 years with five years relaxation for SC/ST community and that the respective second and third respondents belong to SC/ST community. It was also stated that the crucial date for consideration of their case for determination of their age limit was 1.1.1999 and that as on that date, they did not complete 50 years of age and therefore, their names ought to have been included for consideration by the Department Promotion Committee. Since by applying a subsequent instructions of the Union of India, dated 17.2.1999, which prescribed the age limit as 38 for

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all, with the age relaxation upto 40 years for SC/ST, the claim of the respective second and third respondents was denied by the Tribunal. One other contention raised on behalf of the second and third respondents was that there were three other employees belonging to SC/ST category, for whom the earlier age limit of 50 years applicable to SC/ST was extended and that discriminatory treatment was meted out to the second and third respondents alone.

3. As far as prescription of the age limit of 50 years for SC/ST in respect of promotional posts prior to 17.2.1999, the same was not disputed before the Tribunal. The fact that the crucial date for promotion in respect of the respective second and third respondents was 1.1.1999, was also not in dispute.

4. In such circumstances, the conclusion of the Tribunal in stating that the age limit prescribed and which was in force as on 1.1.1999 alone, ought to have been applied in the case of the respective second and third respondents and not the age limit prescribed in the circular dated 17.2.1999, was perfectly in order and we do not find any illegality or irregularity in the said conclusion of the Tribunal.

5. In fact, when these Writ Petitions were entertained, though interim order of stay was granted initially, subsequently, on 5.9.2003, taking note of the fact that two other employees who were also the Original Applicants before the Tribunal, though crossed the age of 50 years, were promoted based on the recommendations of the Department Promotion Committee, this Court held that eventually, if the respective respondents got selected, their promotion would be subject to the result of the Writ Petitions. Inasmuch as we have found that the Tribunal was justified in holding that the crucial date for determination of the upper age limit was what was prevailing as on 1.1.1999 and not as the one prescribed in the circular/instructions dated 17.2.1999, we do not find any merit in the Writ Petitions. The Writ Petitions fail and the same are liable to be dismissed.

6. Mr.Jagadeesan, learned Standing Counsel appearing for the petitioners, raised a contention that in the case of the second respondent in W.P.No.19725 of 2001, there is a controversy relating to his community status. Therefore, the relief granted by the Tribunal, as confirmed by this Court, will always be without prejudice to the stand of the petitioners as regards the community status of the second respondent in W.P.No.19725 of 2001 and any promotion will be depending upon the ultimate outcome of the proceedings relating to the determination of such community status.

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7. With the above observations, the Writ Petitions are dismissed. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

cs

To

1. The Registrar,
   The Central Administrative Tribunal,
   Addl. City Civil Court Building,
   Chennai-104.

3 cc To Mr.M.Jegadeesan, Advocate, SR.34664, 34666, 34665.
1 cc To Mr.D.Nagasaila, Advocate, SR.34922.

W.P.Nos.19725 of 2001 and
23815 and 32787 of 2002

NTK(CO)
RVL 26.06.2007

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